



Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2013-0066; Notice 1]

Ford Motor Company, Receipt of Petition for
Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Receipt of Petition

SUMMARY: Ford Motor Company (Ford) has determined that certain model year (MY) 2013 Ford Fusion and Lincoln MKZ passenger cars built from August 12, 2012 through January 14, 2013 do not fully comply with paragraph S3.1.4.1(a) of Federal Motor Vehicle Safety Standard (FMVSS) No. 102 *Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect*, or paragraph S5.2.1 of FMVSS No. 114 *Theft Protection and Rollaway Prevention*. Ford has filed an appropriate report dated March 4, 2013, pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

DATES: The closing date for comments on the petition is **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

- Mail: Send comments by mail addressed to: U.S.
Department of Transportation, Docket Operations, M-30,
West Building Ground Floor, Room W12-140, 1200 New
Jersey Avenue, SE, Washington, DC 20590.
- Hand delivery: Deliver comments by hand to: U.S.
Department of Transportation, Docket Operations, M-30,
West Building Ground Floor, Room W12-140, 1200 New
Jersey Avenue, SE, Washington, DC 20590. The Docket
Section is open on weekdays from 10 am to 5 pm except
Federal Holidays.
- Electronically: Submit comments electronically by:
logging onto the Federal Docket Management System
(FDMS) website at <http://www.regulations.gov/>. Follow
the online instructions for submitting comments.
Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will

be posted without change to <http://www.regulations.gov>, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the Federal Register published on April 11, 2000, (65 FR 19477-78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the Federal Register pursuant to the authority indicated below.

SUPPLEMENTARY INFORMATION:

I. Ford's Petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR Part 556), Ford submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Ford's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Affected are approximately 4,727 MY 2013 Ford Fusion and Lincoln MKZ passenger cars built from August 12, 2012 through January 14, 2013 at the Hermosillo Stamping and Assembly Plant (HSAP) in Hermosillo, Mexico.

III. Noncompliance: Ford has determined that because the affected vehicles were inadvertently shipped to dealers in the "Factory Mode" that the transmission gear selected in relation to other gears is not always displayed by the shift position sequence indicator (aka, PRNDL) as required by paragraph S3.1.4.1(a) of FMVSS No. 102. In addition, the affected Ford Fusion vehicles manufactured with mechanical key ignition systems do not fully meet the requirements of paragraph S5.2.1 of FMVSS No. 114 because under certain conditions the mechanical key may be removed from the ignition lock cylinder when the transmission shift lever is in a position other than "park."

IV. Rule Text: Paragraph S3.1.4.1(a) of FMVSS No. 102 specifically states:

S3.1.4.1 Except as specified in S3.1.4.3, if the transmission shift position sequence includes a park position, identification of shift positions, including the positions in relation to each other and the

position selected, shall be displayed in view of the driver whenever any of the following conditions exist:

(a) The ignition is in a position where the transmission can be shifted;...

Paragraph S5.2.1 of FMVSS No. 114 specifically states:

S5.2.1 For each vehicle type manufactured by a manufacturer, the manufacturer must provide at least 1,000 unique key combinations, or a number equal to the total number of the vehicles of that type manufactured by the manufacturer, whichever is less. The same combinations may be used for more than one vehicle type.

V. Summary of Ford's Analyses: Ford stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. The vehicle design is self-remedying. The affected vehicles are designed to automatically switch from Factory Mode to Transport Mode after 60 key cycles (beginning with assembly line initialization). Once in Transport Mode the vehicles are fully compliant with FMVSS requirements.
2. While in Factory Mode, affected vehicles clearly display the message "Factory Mode Contact Dealer" in either the message center or instrument cluster). Additionally, the "Factory Mode Contact Dealer" message does not obscure any regulatory malfunction indicator lamps, or (non-mandated) cautionary warnings.

3. The dealership's Pre-Delivery Inspection instructions require dealerships to change the vehicle into Customer Mode, prior to delivery, which ensures the condition will be remedied before delivery to the customer. Ford is not aware of any of the subject vehicles being delivered to customers in Factory Mode.
4. All other requirements of FMVSS No. 102 and FMVSS No. 114 are fully satisfied.
5. Ford is not aware of any owner complaints, accidents, or injuries attributed to this condition.

Ford has additionally informed NHTSA that it has corrected the noncompliance so that all future vehicles will comply with FMVSS Nos. 102 and 114.

In summation, Ford believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners,

purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, these provisions only apply to the 4,727 vehicles that Ford no longer controlled at the time it determined that the noncompliance existed.

However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction for delivery or introduction into interstate commerce of the noncompliant vehicles under their control after Ford notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Claude H. Harris, Director
Office of Vehicle Safety Compliance

Billing Code: 4910-59-P

[FR Doc. 2014-04564 Filed 02/28/2014 at 8:45 am; Publication Date: 03/03/2014]